



# CONSTITUENT ASSEMBLY OF PAKISTAN DEBATES

Saturday, the 10th October, 1953

## OFFICIAL REPORT

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## CONSTITUENT ASSEMBLY OF PAKISTAN

*Saturday, the 10th October, 1953*

The Constituent Assembly of Pakistan met in the Assembly Chamber, Karachi, at Eleven of the Clock, Mr. President (The Honourable Mr. Jamizuddin Khan) in the Chair.

### POINT OF PRIVILEGE

**Prof. Raj Kumar Chakraverty** (East Bengal: General): Mr. President, Sir, I beg to mention one matter relating to the privilege of the House and privilege of a Member with regard to the report in the press about yesterday's discussions in this House published in today's papers. One Karachi paper, the *Times of Karachi*, has given the headlines "Chakraverty Assails Islam". Sir, this is misleading, and a misrepresentation and it is far from me and far from truth. The paper by this headline has tried to create prejudice and bias against the speaker and it may have the effect of gagging the Opposition. I have great respect for the religion of Islam, as also for other religions. To criticise the provisions regarding the Islamic constitution in the draft report is not the same thing as "Assailing Islam." You will please note the contrast in the headlines given by other papers also. The *Morning News* gives its headline: "Attack on 'Islamic Character' of Constitution—and its defence." The *Dawn's* headline is "Congress Criticism Rebutted", and in its comment the *Dawn* says: "The Professor spoke haltingly. He weighed every word before he uttered it. It was obvious he was making every effort to avoid hurting the religious sentiments". Sir, I seek your protection. I hope you will kindly ask the Press to be cautious in reporting on this delicate subject regarding the Islamic constitution so that the feelings of none in this House may be hurt and there can be no bar to a free and frank discussion of the important issues under consideration.

**Mr. President:** I have full sympathy with Professor Chakraverty in what he has said. I was present during a part of his speech. I found nothing objectionable in his speech from that point of view, as long as he was in the Chair. So far as the rest of his speech is concerned, I read it in the newspapers. There also I did not find anything objectionable. I think I did not notice anything justifying such a headline. Therefore what the headlines referred to by Prof. Chakraverty is unfortunate. I only hope that it was not intentional. I also hope that in future the Press would be careful not to give misleading headlines and not to hurt the feelings of any member belonging to any community in this House. I hope this warning will serve the purpose for which it is intended.

### REPORT OF THE BASIC PRINCIPLES COMMITTEE—*Consideration not concluded.*

**Mr. M. H. Gazder** (Sind: Muslim): Sir, I am glad that we have ultimately started.....

**Shri Kamini Kumar Datta** (East Bengal: General): On a point of order, Sir. Yesterday when the Deputy President was in the Chair, I had stood up and it would appear from the proceedings that I was told that the time was up and that I would be allowed to speak next day.

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**Mr. President :** Mr. Gazder ! will your speech be long ?

**Mr. M. H. Gazder :** I shall be very brief.

**Mr. President :** So, Mr. Dutta ! you kindly speak after him.

**Shri Kamini Kumar Datta :** All right, Sir, I will speak after him.

**Mr. M. H. Gazder :** Sir, I am very happy that we have started our voyage on the constitution-making and the basic principles are being discussed in this House and I hope our Constitution Act will be ready as early as possible and fresh elections will take place soon and we will obtain sovereignty for the people which we have not got now. Sir, the report that has been presented to the House is better than what was submitted in 1950. But it has still left very large gaps as far as the idea of democratic freedom, civil liberties, independence of judiciary, protection to public services and status of people who are living in tribal areas and States and people who are living in Karachi are concerned. These are very severe defects and I am going to take them up one by one. Sir, if you look to clauses 225 and 227, you will find that the Services are not fully protected. Appointments will be in the hands of political party which will be in power at that time and, therefore, dismissals, transfers, promotions will be on political grounds. I submit, Sir, that these clauses should be amended and public Services should be given fullest protection and some mechanism should be devised by which no political party who is in power shall indulge in favouritism or nepotism or harass any officer or in any way hurt him. In this connection, Sir, may I say one word that in Australia the Public Service Commission is composed of Judges appointed by Chief Judge and all questions of appointments, promotions, transfers are left to them. No Minister or Head of the Department has got any power in this respect. If anybody has any complaint against any officer, that officer reports to the Public Service Commission and those Judges decide the case on its merits. I wish that unless we make our Services independent, it will not be possible for any person to get justice at their hands. They carry out the policies of the Government and if they are not free from fear of taking certain decisions which might displease certain Ministers, they will not be able to do justice to the people.

Now, Sir, I come to Judiciary. Here, again the appointments, transfers, and postings will be in the hands of political party in power. I want that Judiciary should be completely independent. The appointments should be made by a Tribunal or a Board of Chief Judges of all Courts. Transfers, dismissals, etc., should take place by the Board's orders.

There is one salutary provision which we should make in the Constitution and that is that no Judge, after he retires, will get any other service under Government. Our present Judges always aspire to big posts like those of Governors of Provinces and run after Ministers and they do certain things which are not desirable on the part of the Judiciary to do.

Similarly the Public Service Commission. The Public Service Commission should be independent completely. They should also consist of, I believe, Judges and after their term of office is over they should not get any other appointment, otherwise they will show favouritism to the sons and relatives of Ministers and their friends, who are in charge of giving them further extensions of life or who can get them some bigger jobs. Therefore, Sir, there should be a salutary provision in the Constitution that no Member of the Public Service Commission will ever get

any job from Government and their appointments should also be so made that no political party has any hand in their appointments.....

**Shri Dharendra Nath Datta** (East Bengal : General) : Who will appoint them ?

**Mr. M. H. Gazder** : A Board of four or five Judges can sit and select.

Then, Sir, if you look at clauses 38 and 122, you will find there, Sir, States, Tribal Areas and centrally-administered areas like Karachi. They are all left to the mercy of petty rulers and officials, and to the whims of what is called the Ministry of States. I really do not understand, Sir, why people who are living in Makran or Bahawalpur or any other place should not get the same provincial autonomy which you are giving to other Units ? Why should they be left to the mercies of petty rulers or the officers of this Ministry. At present a Deputy Secretary or some such official goes and becomes the Chief Minister and he rules as he likes. The lives, the honour, the properties of the people are at very great risk and I think we must level up and bring every citizen of Pakistan in line with other Units like the Punjab, or Sind.

Then, Sir, I have got very strong objection if Karachi is left to be governed by any bureaucrat. They appoint any officer—call him the Administrator or the Chief Commissioner or whatever you will—he is given all the powers, but not responsibility at all. We cannot remove him. The responsibility falls on the head of the Minister here and we have to move a vote of no-confidence for whatever misdeeds that officer commits. He acts like a Nawab. There is so much nepotism and corruption going on in his office but he never looks at any administrative matters. He is not available for interviews. People go to him, write to him asking for interviews. He gives written appointments and when they go there they are told “Please write what you have got to say and go back”. Under this state of affairs he is an absolute despot at the head of an administrative place like Karachi, where best brains, best people, best businessmen are living. To leave that administrative unit to a bureaucrat with all the powers but no responsibility to anybody is very deplorable. He is not responsible to the Central Government ; he defies Ministers ; he defies Secretaries and he says “These are my powers ; these are by orders” ! Why should our wise men who framed this report—I would like them to explain it—why have they left the people of Karachi at the mercy of individuals ? Why should they have not suggested a Unit which should have its own Government ? At least people should have a voice—an effective voice—like any other Unit in the administration of the city of Karachi. I strongly protest against this omission, as I protest against leaving Makran and Baluchistan and other States at the mercy of petty officers. Some favourite from the Ministry of States is sent there to govern them and rules over those people like a despot. They are as much Pakistanis as ourselves ; they fought for Pakistan but why should they not get freedom ? Sir, these shackles I do not understand. I would like the framers of this report to please tell us why they have not done this. If India could wipe out 600 States in one month, why are we not able to do it now even in six years ? Do they want bribery from these States, from these Nawabs and Rulers ? Do they want to put their favourites there to get fat salaries and bribes and to ruin the citizens of those places. I want a frank reply from the framers of this Report.....

**Sardar Shaukat Hyat Khan** (Punjab : Muslim) : You sit here and ask for a reply.

**Mr. M. H. Gazder** : Then, Sir, there is one very interesting proposal made in this report and that is about residential qualifications. I would

[Mr. M. H. Gazder.]

like to read clauses 49 and 105 because I want Members to understand the implications. Clause 49 runs thus:—

“49. (1) Every citizen of Pakistan who has attained the age of twenty-one years should be entitled to vote at elections to the House of the People;

Provided that he should be entitled to vote only in the constituency in the electoral roll of which his name is for the time being included.

(2) A person should not be qualified to be included in the electoral roll of any constituency unless he has a place of residence in that constituency.”

Now, Sir, “a place of residence” as defined in this paragraph “means a place where a person ordinarily resides during the greater part of the year.” Then there is the first proviso which reads:—

“Provided that in the case of persons holding parliamentary offices such as Ministers, Ministers of State, Deputy Ministers and Parliamentary Secretaries for the Federal Government and Ministers, Deputy Ministers and Parliamentary Secretaries for the Government of the Unit, and Chairman and Deputy Chairman of the Houses of the Federal Legislature and the Legislature of the Unit, the non-fulfilment of the condition relating to residence should not have a disqualifying effect.”

This is the second proviso—

“Provided further that a person who holds a public office or is employed in connection with the affairs of a Unit or the Federation or is a member of the defence services and who in the discharge of his official duty or on account of such employment or membership is absent from the place of ordinary residence should be deemed to be resident in the constituency in which he would have been qualified to vote immediately before the commencement of his absence.”

This is the third proviso—

“Provided further that where a person becomes qualified to be entered on the electoral roll of a constituency under the proviso immediately preceding, his wife should also be deemed to have become so qualified if she is otherwise qualified.”

Now, Sir, under the present law, a person is deemed to reside in a house if the sometimes uses it as a sleeping place and the person is not deemed to cease to reside in a house merely because he is absent from it or has another dwelling place in which he resides if he is at liberty to return to the house at any time and has not abandoned his intention of returning to it.

The present law is what I have read just now. Now what happens, Sir? There are businessmen and there are Parliamentarians in the House. I hope the future House will sit for six months or eight months in a year to do business as other Parliaments do: You create a disqualification for a member who comes and attends to his duties here and is consequently for the major part of the year absent from his House while at the same time in the case of the Ministers, Deputy Ministers and other officers and servants of Government all that disqualification is removed. I want to ask the wise men of this Committee to explain to me why they did not expect that the members of this House will have to stay out of their houses for a very long time and they should have been exempted from this residential disqualification. There are many of our industrialists, tradesmen, businessmen who have got their residence somewhere inside Pakistan but their occupation always takes them out to foreign countries to Karachi to Chittagong. It will be difficult to prove that for a major part of the year they have been resident in their homes. I want to know why they have departed from the ordinary law which prevails and which is the ordinary case up till to-day. If a man has got his place of residence and if he is free to return to it, he should be considered as resident of that place.

Then, Sir, we have become sovereign State and our House of the People should be thoroughly competent to sanction any expenditure they



like, but I find in clause 73, excepting certain charges which should be charged, expenditure just like interests and salaries of the Ministers so long as they are Ministers, unless they are dismissed, you have said that all other expenditure of this type or that type should be charged just as expenditure of the Government, allowances of Ministers, allowances of Governors and Governor-General. We do not want that, Sir, any expenditure should be charged. People should be free to vote and not to vote for it.

Then, Sir, all the residuary powers are given to the Centre. I believe in abolishing the Units or residuary powers must be given to the Units, because the Centre must deal only with the Central subjects of all Pakistan which are very important for the whole of Pakistan and for the progress of Pakistan as a whole. All the rest of the powers wherever necessary, they must go to the Units.

Then, Sir, Auditor-General's appointments is left also to the Head of the State and that will be made on the recommendation of the Prime Minister; that means he will not be appointed independently. The Auditor-General should be appointed by the House of People, if you want an independent check over the expenditure. Then, Sir, Election Tribunal is also in the same condition. The Chief Commissioner will be appointed by the Head of the State and it will be on the recommendations of the Minister and the party in power and therefore, it will not lead to healthy and free elections. He should also be appointed by some mechanism where no political party will have any hand in his appointment.

Then, Sir, we have got the Board of Mullahs and all that. After all, Sir, Pakistan is going to be a free, independent and sovereign state where every Musalman will have a right to come and serve his country and on its legislature. Why, when you have three hundred or four hundred people from amongst the Muslims, good Muslims in the House, you make their decision subservient to the Board of Ulemas. Ulemas themselves have rejected it and they say they do not want it. I do not know why the framers of the Report have put that in the Report. It is for them to defend it and I think, Sir, it should be deleted.

Then, Sir, you will find some very very important omissions in the Report. First omission is that religion of the State is not mentioned. I do not know if they feel shy of calling themselves Muslims. You know, Sir, the whole idea of Partition of India was that we will have Islam as our religion and will be a guide to the whole world. We will live the life of Muslims and these wise framers of the Report have omitted this most vital and important subject from the Report. They could say 'no' or 'yes' we have made some other provision. But this is a very significant omission and shows betrayal of the nation.

Another thing is that of language. What should be the language of the State; they have left out that also. They have not said one word as to what will be the State language. And, Sir, there are some other features I might just refer to. Appointments and dismissals of the Ministers will be at the pleasure of the Governors or the Head of the State. I do not want that, Sir. It should be the people who should choose their Ministers who should rule them and who should govern them and who should carry out the administration according to people's desires. These provisions are most undemocratic and they may exist in certain Constitutions where you have got very strong convention established; where popular opinion is so strong that no Head of the State can go against the wishes of his Cabinet. Sir, you must have read, you were present there, I think, when Mr. Churchill, Prime Minister of England, invited the Prime Ministers of Dominions to have lunch with the Queen at the time of Coronation in the House of Commons. He made the Queen

[Mr. M. H. Gazder.]

sit on the place where Charles I was hanged and he told her that the Queen does no wrong, but if she does, she will be hanged like that Charles I and Mr. Cromwell who hanged the King, his statue was outside. So, Sir, it is only when you have got very strong public opinion, when you have got very strong conventions established, you might have these powers with the future Heads of the State, but not at present when Heads of the States go by mere letter of the law. We do not want any Head of the State to dismiss the Ministers or appoint them in any way he likes. He must appoint the leader of the majority party as Prime Minister and on his advice he should appoint or dismiss his Ministers. He should even dissolve the House on the advice of the Prime Minister if he cannot carry on the business of the House smoothly. If any measure which the Prime Minister thinks to be very important is not passed by the House, he should go to the Head of the State and ask him to dissolve the House. So, the Head of the State must do everything on the advice of the Ministers.

Now, Sir, another thing. There is a significant omission. The Head of the Units are not supposed to be necessarily Muslims and I want to know why? This State was created on a particular ideology and there are people who were against that ideology. We wanted to have Islam as our religion, as our guide for our whole life. If we put as Head of the Unit a non-Muslim or a fellow who does not believe in Islam and who does not believe in that ideology, how is the State to work in the interest of Pakistan. I want to know, Sir? I do not know, Sir, why these gentlemen left all these defects knowing that our resolutions of All-India Muslim League and we made promises to the people going from door to door, hut to hut, and village to village, saying that it will be a Muslim State, it will be an Islamic State, we will restore Islam to its original purity. But, Sir, tragedy today is that we feel shy of calling it a Islamic State. The actions of these gentlemen who were signatories and party to these promises, party to the ideology and party to the resolution which we passed for Pakistan are pointing to the betrayal of the nation. They have made serious omissions in the Report.

Then, Sir, as I told you, Honourable Ministers are supposed to be responsible to the House, but the framing of rules for the conduct of business is in the hands of the Head of the State. Even in this Report which is going to make future sovereign Pakistan State, the rules of business are left to be made by the Head of the State with the result that our Ministers cannot send for files. As I have already said in press outside, we are being governed by an Act, which was enacted by the British Parliament to keep us slaves. Under that Act all powers were given to the Governor-General and officers. Still, if some officers misbehaved then there was a remedy in the matter of appeal to the Secretary of State or the Parliament itself. Those safety valves have gone; we have no safety. In regard to the future constitution you say that the Rules of Business will be made by the Head of the State. The Rules of Business should be made by the Prime Minister or the Chief Minister of the State. The Ministers have got no power under this Report. Where is then democracy and parliamentary life? Why not abolish it? Let the bureaucrats carry on the Government.

Sir, I do not want to say anything more excepting this that I want Karachi's status to be raised. We want to be saved from these Nawabs and despotic rulers and corrupt fellows. Nepotism is going on; corruption is going on and people have no voice. Elections to the Karachi Municipal Corporation were held six months ago and they have put a junior officer to rule the city. For eight months they have not held the

elections in dispute. I have been to the Minister concerned and I have seen the Chief Commissioner who is supposed to be the Great Mughal of Karachi asking him to hold the elections. They are just not doing it. What is the idea? Do you want to leave Karachi at the mercy of petty officers who take bribes and do dirty things and who are responsible to no one? If I have to bring a motion of no-confidence I can do that against the Minister concerned only for the misdeeds of these officers. But Ministers here are innocent. Anyway we cannot tolerate this state of affairs. The future constitution should not have anything of this nature.

With these few words, I resume my seat.

**Mr. President:** Mr. Dutta! Before you speak I would like to say a few words to the House.

We are now discussing a momentous matter and I do not like that the right of the House to have a full discussion should be curtailed. But all the same, it is, I think, the desire of every Member of this House that the work we are now doing should be expedited. Keeping that in view I hope if the Honourable Members strictly observe certain rules of the House, the work will be expedited. First of all the discussion must be strictly relevant to the issues involved. Secondly, no repetition is permitted under the rules—repetition either of a Member's own arguments or of the arguments advanced by any other Member.

There is another thing. We are now discussing whether the Report should be taken into consideration or not. Therefore, as in the case of Bills, discussion at this stage should be confined to general principles. Details should not be discussed at this stage for the simple reason that there will be ample opportunity for the members to discuss every clause of the Report at a later stage. I hope if the Honourable Members kindly keep all this in view, the work will be very much expedited.

**Shri Kamini Kumar Datta:** Sir, as to the remarks which have fallen from the Chair just now I can only say that I will be alive to his observations. In addition I can add for myself that as a lawyer I am trained to speak the relevant facts.

**Mr. President:** I did not refer to you in particular.

**Shri Kamini Kumar Datta:** Mr. President! Sir, I was a member of the Basic Principles Committee itself but it should be remembered that the report is the product of the majority view and as a member I am not entitled to disclose what happened in the committee meetings. As I have already said I shall very faithfully follow the opinion expressed by the Chair.

First of all I may refer to the new formula on the composition of the Federal Legislatures as put forward by Honourable the Prime Minister. It was not in the original report but it has come as an agreed formula between Eastern and Western sectors of Pakistan. Certainly I think of all the subjects dealt with in the report it is one of the most important items and so far as members of the minority communities are concerned, for them the question of their own rights would be a matter of an equally great importance.

Now, Sir, these two sectors are placed at a long distance from each other and the environments of the two sectors are not the same. Even the traditions and the past history is not the same and the scope of development of each of the sector is peculiar to itself. So, Sir, very naturally each of the sector must be very anxious to see that there may not be any domination of one sector in the matter of management of the affairs by

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another sector. After all, Sir, it is well known that constitution is nothing but a product of all the rules which affect the exercise and the management of the affairs of the State. So, certainly there must be anxiety on the part of each of the sectors to see that there may not be overpowering power given to one of the sectors.

Beginning from the very first of the report, an attempt was made to have a solution of this problem by some sort of compromise, if possible. Indeed credit must be given to our present Prime Minister that after all an agreed solution has been presented. It is one of the most important factors to be considered. If we quote precedents and illustrations regarding other States, I may say without any hesitation, analogies will not help us. Each State must be judged from the situation in which that State is and the constitution must be evolved which will suit the requirements of that particular State. Now it appears that these two States, these two sectors, have got their own peculiarities in aspect. East Pakistan is larger in population and in the force of people it overrides Western Pakistan. But it is one unit. West Pakistan has got more units and a compromise has been arrived at by devising schemes that the population would not override the consideration of units. In order to satisfy that requirement an agreed solution, the device of a second Chamber, the House of Units, has been introduced. I can, therefore, say without any fear of contradiction from any quarter that this proposal of the introduction of a second chamber or the House of Units does not stand on merits. In this case the object was to have a parity. The *modus operandi* to attain that parity was agreement between the East and West sectors. If they could agree that by adopting some principle they can arrive at an agreement, I for myself, Sir, do not see why the two sections could not arrive at a solution, on one House only, *viz.*, the House of People. After all our object was an agreed plan between the two sectors so that one may not dominate over the other. Checks and balances must be such that there cannot be any domination of one part over the other and to achieve that a scheme of the second House on the basis of House of Units was adopted. It is sought to be provided that the election of the Members of the House of Units should not be on the basis of direct votes of the people but on the basis of indirect election. It is now well known that in older times it was thought that a second Chamber was very useful. That was at a time when there was no party system of control in the country. Now when the party system is in vogue in Pakistan and party controls the Houses and the sovereign power and party controls the elections too and particularly so in indirect elections, what value it will add if there were a second Chamber. If in indirect election there is no corruption or breach of the discipline the shape of election must be on the same basis as the election in the House of People itself. It must be according to the dictate of the party. So, I could not really understand what was the utility of a second chamber at all. It may be said that in arriving at parity if the Federal Legislature would be confined only to one House—the House of the People—then the question of population would stand in the way. I can say the commendable spirit of unity which has been shown by the Members of the political party which is now in power in arriving at the agreement will certainly lead them to an understanding that they cannot imperil the existence of the country. If they could agree on that artificial check of a second House they could frankly agree that there should be a solution by parity even on population basis. When we have agreed to parity why then there should be a second House at all. It was only an imitation of the United States of America. But we must bear in mind that a constitution is a product of historical

incidents. England has its two Houses. One who knows the history of it is bound to admit that it is the product of historical accident and the formation or framing of two Houses in the United States of America was also really a product of history. The history of the formation of the separate States which did unite and which were sovereign at the time of the union would show that they thought that it was the best solution they could make at the time. But that should not be imitated in other countries. This analogy does not hold good for Pakistan. Here in our country no two sovereign States in the East and West Sectors did exist nor are they going to unite together now. In fact both were one State and one State only. Moreover here we find that the only party, only political party, which is in power in the administration of the affairs of Pakistan is the Muslim League Party. I must say, if my friends would not take me amis, that so far as I know there is no particular socialistic or political ideology guiding that party. In the background of that party the basic factor is faith in the same religion and on that fabric that party has been built up and is conducted even now. So, if there is no question of ideological difference between the members of the East Section of Muslim League and the West Section of the Muslim League and if they all belong to the same religion and have faith in the same religion and if they all think that they are really the citizens of Pakistan, of one solid State, compact State, why they should then resort to that device of imitating the American constitution. Let us have no House based on Units and let us have one House based on population. After all as we say it is deceiving ourselves. I would rather ask my friends if they had been able to arrive at this conclusion that we must have parity that should be the target which must be attained then it should be attained anyhow. Secondly we could have it by agreement then why do you resort to that second chamber, the working of which would launch you into various complexities and may lead to deadlock and even may lead to dissolution which is being apprehended. I can only say that I have studied that problem a little and I can assure my friends that I have studied from the point of view of one who has some idea of framing a constitution and one who is a sincere well-wisher of the people of Pakistan. I can assure them that really I find myself perplexed how that cumbrous scheme has to be worked out. It will launch the workers, the administrators into a situation from which it will be very difficult to extricate the State, to extricate those who are in charge of administration. I would again say if they can agree on the main objective, let them agree on that as well that we should not have two Legislatures but so far as the federal structure of the Legislature is concerned, let us have one House and one House only based on the question of population and let us not only rely on the numerical strength but remember that after all we have to work together. We have to live together ; we have to build up the State. This constitution must be made simple and not a confusing one like the one that we now have under the agreed formula which has been presented to the House.

As to the utility of a second chamber, I do not think I will dilate upon it. There was a time when the second chamber was thought very useful and in federal structure an idea prevailed that there ought to be a second chamber. Even in unitary constitution, there were two chambers in some States and those ideas prevailed at a time when really party system, party control and in conclusion party control in the administration did not prevail, and when the idea was that the Lower House of the federal legislature represents the wishes of the whole people and the House of Units does represent the wish of each Unit in itself. So there was a requirement of a second chamber. But here, I would ask, I would

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really ask to ponder over it, would really the members sent by indirect election from Lower House of the Unit be of a different type at all? Who will control that election? The same parliamentary party, the same political party. So, that contention does not help. There was also an impression sometimes that it was better to have an Upper Chamber made by nomination and there are some States who have got their members of the Senate or the Upper Chamber nominated. That was with a view that by nomination, they could get experts elected, elderly people elected who could give better advice, but we know that those ideas have been given a go-by. Now, people are more alert and there is a check of the public opinion itself upon the legislators and that would keep them straight in their path. I think that provision is really of not much help to the people. So, the second House for that is not required and in some cases and in some instances, there was an idea that there may be representation of special interests in the second chamber, but that principle of representation of special interests has been given a go-by altogether. Our members of the Upper Chamber would not represent special interest at all; they will be elected by the members of Lower House who would be elected by the people and it would be under the dictate of the political party which returned those members. So, that contention is absolutely useless. In just trying the analogy from the United States of America, an argument is sometimes advanced that the second chamber or as they call it, the Senate of the U. S. A., it helps in the performance of the executive functions by the President or the Head of the State, but there we must not be misled, the President of the U. S. A. occupies different position from that of the Head of the State. Our Head of the State is executive Head with only constitutional powers, but the President of the U. S. A. is vested with vast executive powers and there the Senate is to advise him. Our Head of the State has not those executive powers and really the Senate or Upper Chamber would not be of any use in that. So, going in to the history of the creation of this Upper House, I do not find any justification for the creation of an Upper Chamber at all, which means additional expenditure and a heavy expenditure too. Already we are over-burdened with expenditure and as there is the fear complex of war, that item in the Budget has swallowed up a major portion of the revenues of the country. It should be the outlook of all to see that expenditure is less. Then, sometimes it is said that in legislation, the second chamber would be a wiser body and the legislation would not be hasty. Regarding that I can say, I am not only in this House, but I have been also in the legislature in the united India in West Bengal and I have experience of legislature for several years. Now, the legislation is not hasty; there is the elaborate procedure for publication of the Bill, for consideration of the Bill; for consideration of all the measures, there is no risk of hasty legislation and I really cannot say that the members elected directly by the people would be less wise than those members who would come by indirect election. That they would be personages with higher wisdom, I cannot accept. So, taking all these points, I can only say that the introduction of a second chamber was not really on its merits, but it was only to provide a scheme by which both the sectors could come to an agreed solution of the trouble.

**Sardar Abdur Rab Khan Nishtar** (Punjab : Muslim) : Do you know of any Federation with one House ?

**Shri Kamini Kumar Datta** : As I have already said there are Federations and Federations. East and West were never separate States or Sovereign States. So, really to talk that there cannot be one House of Federal Legislature, I would only say, it would be misleading the history.

If any one would look to the history of several States which have been created after the war, in modern times, more than half a dozen States have been created after the war.....

**Sardar Abdur Rab Khan Nishtar :** My question still remains unanswered.

**Shri Kamini Kumar Datta :** Just now, in none of these States there have been two Houses. In this case, Federation comes as a matter inevitable to us because one portion is situated several thousand miles away from the other. So, the Federation comes in. If really East and West Pakistan would have been one compact State and in contiguity to each other, I am quite sure, we would not have thought of federation at all?

**Syed Shamsur Rahman (East Bengal : Muslim) :** Why not?

**Shri Kamini Kumar Datta :** Yes, even without Federation, in a unitary administration, so far as East Bengal is concerned—I come from East Bengal—I would say that if both these sectors would have been one compact State, East Bengal would be in power, but still I do not say that I am partial to East Bengal and that East Bengal must predominate. East Bengal has agreed and agreed to what? Agreed to Federation which is inevitable in this case because they are far apart from each other. It cannot be united. I will refer again to that aspect when I would be considering the other aspects as to the autonomy of the Units. It must be federal because they are situated apart from each other. But I think at this stage I can only say that it will be a federal structure but it would not be and it ought not to be the federal structure with the predominant idea of strengthening the Centre only because the two parts are far apart from each other. In the Objectives Resolution itself it has been stated: "Whereby the territories now included in, or in accession with, Pakistan and such other territories as may hereafter be included in or accede to Pakistan shall form a Federation wherein the Units will be autonomous with such boundaries and limitations on their powers and authority as may be prescribed". Mind the word "autonomous"—Not autonomous in papers. "Autonomous" means independent in home affairs and with full scope of having resources at its command to develop the spirit of that part, to develop that part according to the situation existing there. The Objectives Resolution did not confine itself only to stating that it would be federal. Federal it must be because they are far apart from each other. But at the same time it stated that the Units will be autonomous. "Autonomous" means that the functions of the Units must be enlarged and with the enlargement of the functions, will come the power of taxation to fulfil those functions and it will be a very important matter. My friend Mr. D. N. Dutta has already referred to the list in this connection, and I will not enter into the detail of the list. That will be taken up when the consideration of each item will be put before the House. But that guiding principle we have to remember, i.e., federal. Federal it must be, it cannot be helped. If the two parts would have been contiguous, I would not have objected to unitary constitution. But here I do object because we are far away from the Centre. But at the same time we must not forget that in our desire to have a constitution with the agreement of both parties, we should not lose sight of the most important ideal—the ideal of autonomy. As I have already stated autonomy means independent in home affairs, not under the control of the Centre at all. Autonomy is not a glorified Municipal Board or a District Board. As I come from East Bengal, I can only say that we should be very careful to see that we do not give more power to the Centre than is essentially required for it. And that it may be said that the problem of Defence will be left over to the Centre—Certainly to be. But at the same time

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you can distribute some of the most important functions for the development of the country to the Units. Give the control of development to the Units—development of local industries, development of other features in the country and the power of taxation for developing the resources of the Units and putting into action those functions. I have been challenged regarding the structure of the legislature of one House only. I have already said that bi-cameral legislature is a product of historical accident. The situation must be judged from its own facts and circumstances and the illustrations must not mislead us. I quote some illustration as to the federal status, as for example the Commonwealth of Australia. There are two Houses. In both the Houses the election is direct and though in most of the subjects there is equal power given to both Houses, the Upper House has not been given any control over the money Bills. So illustrations do not help us. Next I come to Canada. There the Upper House is elected by nominations, not by election at all and the Ministry is responsible not to the two Houses but to the Lower House only and the Finance bills are decided there. So there is no use talking only of favourable situation that there are two Houses. Then I come to the United States of America. I have already said that it has got a historical background. There the President is powerful. He has got more power. There they have got a small House to control the President. But here we have not made our Head of the State real executive. Real power lies with the Ministries and the States are independent. Then as to France, the least I say the better. There is a Council of Republic and there is another House also—the Assembly. But the result is that France has been unable to form a stable Ministry and the lesson of France should be a lesson to us.

**Sardar Abdur Rab Khan Nishtar :** It is due to too many parties.

**Shri Kamini Kumar Datta :** Of course there are too many parties there. Here I want to correct one thing. Perhaps the assumption is that in Pakistan there will be no growth of political party at all. The only party which will rule would be the party based on the faith in religion. If that is the future dream which is in the mind of some persons, then I can tell them that they are thinking of a very unprogressive country. I am bold enough to think. I know the young generation so far as East Bengal is concerned. I can say that they have a more bright future in their imagination. They do not think of communal political party alone. They think of political parties with ideology which can keep pace with and can progress in the World. If you think that the only political party which will have any existence in Pakistan would be a communal party with its faith in religion, I can say—do not think that I am saying anything against your religion, I should not be misunderstood—that you are not the friend of your State.

I am quite confident that not in the distant future but in the proximate future the younger generation, who are the future generation of this country, will think of building up political parties on political ideology, an ideology which will really look to the interests of the people, not to the few vested interests. So really this formula has to be looked at from that aspect. There is only one political party now and that is the Muslim League Party. There are no other Parties. (*Interruption*). At present there is only one Party ; there is no other political Party : only one Party. Now we have got only one Party in power both in East Pakistan and in West Pakistan. So the contest was only as to the area, that is whether the eastern area would predominate or whether the western area would predominate, because as to the ideology there was no difference between the East and West wings. That has been agreed upon : that irrespective



of the question of population, irrespective of the question of Units, we agree that we shall have equal control in the management of the sovereign affairs of the State and so, as I have already said, when you arrived at that final objective, the solution is very easy. Let the process be a simple one, not a complicated one which will lead you to various troubles which it is impossible to foresee now. As I was saying, it is not possible at this stage of course to foresee all the troubles which may come but so far as that formula which has been placed before us is concerned one thing appears though not very clear in this agreed formula, but I think from that I can infer that the Ministry would be responsible to both the Houses. In the first Report, which was submitted in 1950, it was clearly stated that the Ministry would be responsible to both the Houses. Just consider what it means: the Ministry to be responsible to both the Houses, not on paper but in actual working. How difficult it would be to please both the Houses and whether it will lead to inefficiency in the working of the Ministry; surely the utmost energy would be frittered away in satisfying both the Houses. As an instance, one measure may be liked by one House but it may not be liked by the other House, and who knows which measure would be liked by both the Houses. As I have already said, now we are thinking of one Party but in the future surely different Parties will spring up and when different elements with different ideologies would be represented in the House just think how much trouble will arise. So, really, this problem would be a very complex one. It would be better to avoid it. We find that here provision has been made for a joint session when the two Houses do not agree, but I am quite sure that provision would have to be altered altogether. Even joint session will be required at the very initiation of some of the matters whether they agree or do not agree, as, for example, the question of the annual statement of income and expenditure, which you call the Budget. Now Budget is to be presented to one House but consideration and voting—of course it is so envisaged here that really the Budget being voted by the House of the People—have got to be voted by both the Houses. Can you conceive that the Budget would be placed before the House of the People once, voted once and again sent to the Upper House, to the second Chamber to be voted again? I can only say it will be ridiculous to think of such a contingency; so the provision of a joint session at the very initiation has to be provided. As to the presentation of the Budget and the consideration of the Budget as of Money Bills, I think it will be wiser if really this structure would continue to have them placed initially before the joint session, not once before the House of the People and again before the Upper House, to be sent back by them with some amendments, and then have again a joint session. That will be a delaying process and that will be a process which will increase differences and will impair the efficiency of the Administration. So this provision, which has been made for a joint session where the two Houses do not agree, is a provision which has inevitably to be amended. There must be a joint session if this formula remains at the very initiation of the presentation of the Budget, voting and consideration of the Budget, presentation of the Money Bills and the passing of the Money Bills. As has already been said, I think by one of my friends, Mr. Dutta, who was not probably mistaken in the matter of the election of the Head of the State which has been left entirely to the votes of the two Houses here.....

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At this stage Mr. President vacated the Chair, which was then occupied by Mr. M. H. Gazder, one of the Panel of Chairmen.

**Shri Kamini Kumar Datta:** Practically we have excluded the votes of the Lower House by the votes in the House of the Units. I will never say that the value of a vote of a member of the Lower House would be the same as that of a member of the Upper House, but there also the parity may be worked out which will show that the large number of members of the Lower House may not, by their predominant, numerical strength affect the election but at the same time they ought to have a voice in the election. There has been a suggestion for the election of the Head of the State by the direct votes of the people and not indirect. Because our Head of the State is after all a constitutional head and the State should not waste money over that. No, I am decidedly not for direct election but I think the members of the Lower House ought to have voice in the election, but at the same time although the value of their votes may be decreased to an extent which would not allow them to have any dominating effect in the election yet they ought to have a voice. They should not be ignored altogether. That is also one matter which requires consideration and as I have already said in discussing this that in our attempt and in the attempt of the Parliamentary Party to arrive at an agreement they have lost sight of one of the most important subjects, namely the question of autonomy of the separate Units in the structure of the Administration and that is not a matter to be lightly thought of. We should not forget that Pakistan requires development—developing all its aspects. And, East Pakistan cannot be developed in the same manner and by the same process as West Pakistan. West Pakistan had got some special facilities and opportunities which East Pakistan did not have. But East Pakistan has to be developed. In this regard you have to pay attention to environments of the province, the resources it possesses and the man-power it has which would contribute to the building up of a welfare State. So, in the allocation of the functions and powers I can only say that we should be very alert and see that we do not give practically all powers to the Centre and starve the Units altogether. I need not dilate further on this point and my definite submission is that the formula should be made more simple. When there is faith in each other why not extend it a little further and strike off the second chamber and build up the federal structure on one legislature. Let it be a unicameral federal legislature. There will of course be the legislature of the unit where it is located.

Now, I come to the question of minorities. Everybody knows our views on this subject. You know we feel very strongly on this. We do not like to be segregated. Are we unhealthy people that we are not being allowed to mix with our brethren? Our names should not be removed from the general roll of voters. We have got a right to be there. We are the sons of the soil; not by migration. We are the sons of the soil from the earliest time of the history, from the time of the creation of Bengal. As such we have a fundamental right, a democratic right to participate in the administration of the country. I do not mean participation of a nature in which I am engaged now—speaking in the House. I mean to participate in the exercise of the sovereign powers of the State through my representative. My representative may be from the minority community or he may not belong to my community at all. It may be my Muslim brother. But my representative must have a voice in the administration of the State. Yesterday we were told that this decision was a democratic one, because it has been taken by a majority and one has to abide by it. Certainly we cannot revolt; we have to abide by it. But I say the use of the expression “democratic” is misused here. What is meant by democracy? Democracy means where the voice of the people predominates—not where the ruling power in a particular class

predominates. Here, is it the voice of the people and do you call it democratic? We have not been elected here on democratic basis in the least and it is a cardinal and accepted principle of democracy of all States adhering to the principle of democracy that power must not vest in a ruling class though it may be very numerous. Power must vest in the people. In this connection I can read a portion of the Objectives Resolution where joint electorates have been guaranteed and you are committing a breach of that solemn Resolution by segregating us into unhealthy compartments. The very first clause is that "sovereignty over the entire universe belongs to God Almighty alone and the authority which He has delegated to the State of Pakistan through its people for being exercised within the limits prescribed by Him is a sacred trust". Mark the words "through its people". It has never been said that through only the followers of the faith of Islam. It has said "through its people". It has been definitely said: "Wherein the State shall exercise its powers and authority through the chosen representatives of the people". No amount of quibbling would help us in trying to minimize the value of the solemn pledge that the State shall exercise its power through the chosen representatives of the people. It may be said: "We have also got a right to elect our people." I say let us be sincere to our own heart; let us be sincere to God. When there is a separate electorate; when there is a party system in the country.

**Mr. Chairman** (*Mr. M. H. Gazder*): Are you likely to take long?

**Shri Kamini Kumar Datta**: I will finish by one.

**Mr. Chairman** (*Mr. M. H. Gazder*): There are certain persons who want to go away today and they could speak if we sat up to 1-30. What is the opinion of the House?

**Mr. Ghyasuddin Pathan** (East Bengal: Muslim): A large number of members are going to Mohanjodaro. It will be difficult for them to attend the evening session.....

**Prof. Raj Kumar Chakraverty** (East Bengal: General): There is no suggestion for an even session.....

**Mr. Ghyasuddin Pathan**: Unless our friends feel hungry as they did last time by sitting up to 1-30!

**Shri Sris Chandra Chattopadhyaya** (East Bengal: General): What do you want?

**Mr. Chairman** (*Mr. M. H. Gazder*): Certain members are leaving Karachi today and they want to speak. I was asking if we can sit up to 1-30?

**Shri Sris Chandra Chattopadhyaya**: In that case there would be two sessions.

**Mr. Chairman** (*Mr. M. H. Gazder*): No, no. Only up to half past one.

**Shri Sris Chandra Chattopadhyaya**: You should finish at 1 p.m.

**Mr. Chairman** (*Mr. M. H. Gazder*): Let Mr. K. K. Dutta finish then.

**Shri Kamini Kumar Datta**: Now, Sir, I was reading the Preamble. It runs:

"Wherein the State shall exercise its powers and authority through the chosen representatives of the people;"

So it says through the chosen representatives of the people the State shall exercise its powers. Notice "the sovereign capacity of the chosen representatives of the peoples." It has been nowhere said that chosen representative of a particular class. Then, Sir, next paragraph runs:

"Wherein the principles of democracy, freedom, equality, tolerance and social justice as enunciated by Islam, shall be fully observed;"

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As to the principles of democracy I have already said that democracy really means the expression of the will of the whole people and not, I may be excused for repeating it, only the manifest will of the ruling power of a particular class, however numerous it may be. Of course I am exercising the democratic right because I am allowed to speak here but, as it is, really we have no power and right even to elect a single Honourable Minister. So, I think really the minorities have a right to demand their place in the general roll of the country and not to be thrown into a separate roll. Now if there is any apprehension in the minds of any one that the big minority of East Bengal will remain in the communal camp—I think those who dream of it should be told that that communal barrier will be crossed by the minorities. It cannot be kept any more. The world will not allow it. So I say very emphatically that we have every right to claim it and claim it not as a favour but as a fundamental right. Further it is said :

“The people of Pakistan may prosper and attain their rightful and honoured place amongst the nations of the world and make their full contribution towards international peace and progress and happiness of humanity.”

I inquire categorically, as said in this clause, are we really in a position to contribute to the international peace and progress and happiness of humanity and are we in a position to make our contribution towards the fulfilment of that objective. Rather I would say that this separate electorate will dwarf our intellect, our mental capacity altogether, if it continues for a long time. The minorities in East Bengal will be converted into a set of people of imbeciles. Body is not the only factor to be considered in the world ; mind is more important factor. If a minority would think I am here as an untouchable in a separate camp altogether this will generate a feeling of inferiority complex in him and it will gradually lead to the dwarfing of his mental capacity and his intellectual capacity. History is not rare in instances where a small group of people without any extermination have entirely disappeared. They have vanished from the face of the world. I can only say that it will be a problem for the minority to consider in East Bengal—a very serious problem—whether really they can live as men in East Pakistan, whether their future generations will be only generations of dwarfs and imbeciles in mental and physical capacity without any prospect of future progress, without any prospect of making any contribution towards the cause of humanity, because we would have no *locus standi* to make any contribution at all. So, I would say that really this is a demand which we have a fundamental right to make. This is our human and fundamental right. Moreover this is a right which was pledged to us by this very Assembly in the Objectives Resolution. I would say again for Heaven's sake this pledge given to us should not be breached. It should be observed faithfully. Now if any one would think that if these rights were given to what political party we would belong. I think I can say that your Muslim League Parliamentary Party, as it is now constituted, does not admit any one to be its member unless he is a Muslim. But the moment you make a party based on non-communal lines so that I am entitled to be its member, you will find, if your ideology is such that you will work for the welfare of the people, the minorities will flock to your fold. Why are you afraid that the minorities will be against you ? Give them equality, take them and allow them to be members of your party and you will see what contribution the minorities will make towards the cause of the State, towards the cause of humanity. This mistrust in us must be removed. Confidence really creates confidence. Believe us and I can tell you as I have been in East Pakistan for a long time and although I am living in the town I have a house

also in the rural area and I am in close contact with the people, so I can tell you about the mind of the minorities of East Pakistan. They will be here; they will live here; but they will certainly struggle till they are extinct for proper place in the State. They will not remain silent. So I can only say that this is a fundamental right to which we are entitled and to which we have every right to claim as a matter of right. I know it is our fundamental right, our human right. I remember some Honourable Members made references to it although I do not remember the names. So, Sir, it should not be denied to us. Someone said, some of the former speakers, that it was a device invented or introduced by the former rulers of India. I have made study of the historical side of the introduction of separate electorates. I can say it will be wrong reading of the history, to say so. The Britishers were opposed to it. It was asked for by the Muslims then in fear complex of the Hindu majority in India, fearing that it will oppress them. I have read those proceedings very carefully and I find that the Britishers devised it only as a temporary measure which ought not to be adhered to and that it was to be a measure which could not conduce to the welfare of the people. They had said it to be such a measure and they were constitutionally opposed to it. It was not therefore invented by them and they further said that a majority community can never ask for separate electorates. Here what we say? We the minorities have asked for joint electorates. You are in overwhelming majority in the country and dominating them. You are in power; the majority party is in power and they have denied that right to the minority which they enjoyed. The minorities are prepared for joint electorates without any reservation only asking for reservation of seats for backward classes for a limited period of 10 years.

**Shri Dharendra Nath Datta :** On the ground of their backwardness.

**Shri Kamini Kumar Datta :** May be any ground.

We have amongst us most intelligent section which is prepared for joint electorates and they are asking for it. When first it was introduced, it was asked by the minority community and I have a very clear recollection of the proceedings of the various associations. It was then said that it can never be granted to a majority community in any case, but here even if the minority community are asking not for the separate electorates but joint electorates, a further cleavage has been created between the Caste Hindus and the Scheduled Castes, Buddhists and the Christians. It is said that some members have asked for it. Members asking for it will not be wanting; they are traitors and stooges. Do they really represent the view of the minority community is yet to be seen. Please, I can only say, ask your soul, ask your heart, ask your judgment, could it be fair to take shelter under the pretence of a claim by some fellow or you will look to the general demand of the people. For God's sake do not take shelter under that pretence because it cannot last long; truth will triumph.

Now, as our objective is, we desire a political fusion with the Muslims. We know our section of the minority are not backward; they are quite intelligent; they have studied politics for a long time and really in the history of the war for independence of united India, Bengal's quota was very large and I am proud to say—look to the courts in East Bengal and look at the history of East Bengal—you will find those who did go to the gallows, those who suffered, 98 per cent. of those were from East Bengal. It was East Bengal which did fight for it and that spirit remains in us still. We know how to be faithful to the cause of the country; we are trained in that and, believe us, you will gain in strength if you take us into your confidence. I can only say, that shelter must not be taken

[Shri Kamini Kumar Datta.]

under any subterfuge. In this connection, I will not dilate on it any further, I have spoken my open heart. I am an old man almost at the verge of my life and if I see that the minorities have got a right in the management of the Sovereign State, I shall die happy—really I shall die very happy.

Now, on another subject, a very delicate one. I should be very careful and straight. I find today my friend Mr. Chakraverty had to make a submission to the Chair about some adverse remarks regarding him in connection with the discussion of the expression of Islamic ideology of Islamic State. If you ask my personal opinion—I am giving it here my own; do not think the opinion of any others—I know a little bit of your cardinal principles of Islamic ideology. I have very high regard for it, but one thing, I am here giving you a warning: your theologians must not be giving opportunity of enunciating anything and everything which they think has come within the scope of Islamic ideology. I may tell one thing that doctrine which is all over accepted, is more deadly than mere actions. They are very bad and do not allow bad doctrines to be preached, do not allow your theologians to spread anything under the mask of Islamic ideology and for that can I make one suggestion. Would some of you, I mean those in authority, take the courage in their hands to enunciate that these are the cardinal principles of Islamic ideology so far as can be made applicable to the rules of the State because as to Islamic ideology, there are some according to which a Muslim has to build his own life, and that may be applicable. But would it not be or should it not be announced to remove all misapprehensions what are the cardinal principles of Islamic ideology which would be applicable to the rules of the State, not in reference to your guiding your own mode of life because their application would be much wider. After all I may be excused if I repeat and say that the Constitution is a product of history and can it be said that a State is something which is static. State is ever-changing, ever-growing and it must adapt itself to the need of the time, it has to adapt itself to the need of the hour. I do not know the original writing of Allama Iqbal, but I did read some of his English translations where he said:—

“All political stagnation, social and political stagnation, must be avoided and stopped.”

He is one of those who has preached, who is the exponent of the Islamic ideology. He has preached against political stagnation and social stagnation. As I have already said, the phenomenon of the State is so very complex that it must adapt itself to the crying need of the world. Even that it is today found to be good, next year, we may find that it does not suit us. World is changing very fast. So, I would say that as to the Islamic ideology, so far as it relates to the rules of the State, it will be rather better to announce them that these are the cardinal principles, so far as applicable to the rule of this country. In this connection, I have only to say—never think that I am entering into historical attitude; I am a reader of history and of political history too though I am a lawyer, I am not lawyer only—I would say that there was contribution made by Islam to the cause of humanity, but at the same time, I can say the empires were built, in original stages, their religion was all true, but when it became otherwise, they lost their empires. I will finish my speech within two minutes. Now I will say about fundamental rights. Fundamental rights have been provided in the Constitution and indeed the fundamental rights have already been accepted in this House in the previous session. It is known that the fundamental rights are justiciable. Justiciable means that people can enforce it in a court of Law. What

does it mean? It means that whenever there is a breach of just fundamental right, one can approach the court for that and for that provision ought to be made here in the Constitution. The Supreme Court and the High Court in their original jurisdiction ought to be allowed to entertain applications for the enforcement of those rights. One may say that there are provisions for *Habeas Corpus*, *quo-warranto* and other things. As a lawyer I can tell you and I am quite sure that the Honourable the Law Member who is an erudite lawyer will support me in that that really a provision ought to be made in the constitution itself for a right to be kept alive for my successor who would come in whenever there is has been done under clauses 32 and 226 of their Constitution. It is said, you can bring a suit to have your right declared before a court of sub-judge or munsif but I will get the right after my death and the suit has to be kept alive for my successor who would come in whenever there is a breach of fundamental rights. Speedy action should be taken and the only court competent to adjudicate upon it is the Supreme Court and the High Court and I think that it would be included in the Constitution itself. I will not continue further. I can say I have confined my remarks to few salient aspects as to the one chamber in the Federal structure and the right of the minorities and the removal of misapprehensions about Islamic ideology.

**Mr. Ahmad E. H. Jaffer** (Sind: Muslim): Sir, I hate reading a written speech. This is the first time that I am doing so because I have found some Members of this House reading long text for over two hours.

**Mian Muhammad Iftikharuddin** (Punjab: Muslim): But lay it on the Table.

**Mr. Ahmad E. H. Jaffer**: Sir, unfortunately it is not even half an hour left now and as the subject of the speech is very important, I should read my written speech to voice the feelings of the people of Karachi and I hope the Members would listen to my speech with patience, because it is a subject which is of vital importance.

Mr. President! Sir, I join the chorus of congratulations, showered upon the Prime Minister of Pakistan, the Honourable Mr. Mohammed Ali, the Leader of the House, for the glorious part he has played, in resolving the differences, that had threatened to create an insolvable deadlock, in the framing of the Constitution of Pakistan. Few optimists, would have been able to venture to forecast a smooth sailing for the Report of the B. P. C. that has now been ensured by an agreement of major parties to the dispute about the representation in the future Parliament of Pakistan.

The B. P. C. Report, which the Honourable Mr. Mohammed Ali has moved for consideration of this House, demands a great consideration, but greater still the amendments proposed to the Report in respect of representations to various Units, comprising Pakistan. Therefore, I shall first deal, although briefly, with what is generally known, as the formula of agreement, between various Chief Ministers.

I do not want to spend much time of this House in analysing it. I cannot, however, refrain from making one or two important observations. In the formula, which was formed, in the deliberations of the various Chief Ministers of Pakistan provinces, Karachi, although worthy of a place of honour in the comity of provinces, has suffered a severe jolt. I can hardly recollect any shock of a more permanent nature, suffered by Karachi, than the jolt that it has suffered, in the utter neglect of its claims, in the deliberations of the various Chief Ministers. As though it were an unclaimed babe, it was given asylum, along with regions, which can neither claim to it proximity nor affinity. If the people of Bengal, in spite of their clear majority in the future Parliament of

[Mr. Ahmad E. H. Jaffer.]

Pakistan, were apprehensive of injury to their interests, rights and privileges; if the people of Punjab, in spite of their dominant and domineering position in the political, social, educational and administrative fields, were afraid of being overridden, by the mere majority of numbers of the people of Bengal, surely, nobody can deny the right of entertaining apprehensions, to the smaller Units who can be swamped away, as if they never existed. In fact, the case of Karachi, is a clear instance on that point. None of the Ministers of the Central Government belong to Karachi. Barring the Ministers of the Central Government, and the Chief Ministers of various provinces, nobody-else was present, when vital negotiations with regard to the future of the country's territorial fragmentation was going on. Not even a feeble attempt was made, to take the representatives of Karachi into confidence, before sealing their fate. If the people of East Wing, who claim to have the same culture, ambitions and aspirations, as those of the Western Wing, cannot trust the people on this side, and must insert a safety valve of 30 per cent consenting clause, to ensure non-neglect of their wishes, cannot the people of Karachi consider themselves utterly neglected, and deliberately ignored, when they were not even consulted as to what was going to be their future? Democracy is no doubt a rule of majority, but the majority that does not even care to consult the minority is likely to cut a sore and permanently gaping wound in the body-politic of the country. I have not met a single person of any consequence in Karachi, who has not expressed his abhorrence or protest, against this act of utter neglect. Karachi has been compelled to live under the disadvantage of not being enabled to look after its own internal matters; its education was thrown into the hands of people, who never had any feeling or connections with it, and therefore, indicated no sympathy. The ill-effects of this policy are apparent. The army of idlers has increased in Karachi; children have no schools to go to. But who is going to take notice of this plight of these poor people? They do not form a majority; they are a neglected minority in the scheme of things, and therefore, they must remain permanently ignored, deliberately slighted, and openly flouted, by the people who govern to command. I shall, therefore, be failing in my duty, if I do not make it unmistakably clear, that the people of Karachi have been completely ignored when its representation was under consideration.

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At this stage Mr. M. H. Gazder, a Member of the Panel of Chairman, vacated the Chair, which was occupied by Begum Jahan Ara Shah Nawaz, another Member of the Panel of Chairmen.

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**Mr. Ahmad E. H. Jaffer:** We have been told, that peculiar conditions of geography, could not be ignored in considering the proposals for resolving the differences on the point of representation. I take it, that these peculiar conditions of geography, have reference to the fact, that East Bengal has no contiguity to West Pakistan. For those who emphasize this kind of lack of contiguity, between the East Wing and the West Wing, is it necessary to remind them, that there is no contiguity of any kind between the region of the federal capital of Karachi, and the region of Bahawalpur and Baluchistan. The difference, that is said to exist between the interests of the peoples of the Western Pakistan and East Bengal, is also present to a similar or a lesser degree, between the peoples of the far-flung regions, which have been grouped together into an incongruous Unit. I know, that the people of Bahawalpur are a great people, have great traditions, are good Musalmans, are strong



healthy, loyal and patriotic. So are the people of Baluchistan. But it cannot be denied, that to be the people of one Unit, there must be facilities of contact and communications between the various parts comprising the Unit. Communications between the regions of Bahawalpur, Baluchistan and Karachi, can create the same difficulty as though the entire West Pakistan were one single Unit. Candidates from Karachi will have to create connections with the candidates from Bahawalpur by crossing the region of Sind, and then reaching the people there. How difficult it will be, for political parties, to organise such elections, and for the candidates of various sub-units, to create a feeling of homogeneity, and affinity, which should have been taken into account, when the demarcation of the Unit was attempted. There is a far more common bond between the people of Punjab, and the people of Bahawalpur; there is the bond of a common language, common habits and customs, and common relationship. So perhaps will be found, between the peoples of Baluchistan and the Frontier Province. But there is nothing of that nature, between the people of Karachi, and the peoples of the other two sub-units, which have been joined to Karachi.

As I have said, Madam, in the beginning, I am not going to indulge in detailed observations on all aspects of the compromise formula. I have indicated my views on one restricted aspect of it, i.e., Karachi's representation in the House of Units. I should like to mention, that the people of Karachi feel very strongly, and resent most vehemently, the attitude of the Government, and of my fellow members of the Constituent Assembly, in refusing to recognise them as a Unit *de jure* of Pakistan, entitled to all the rights, privileges, commitments, responsibilities and liabilities of a free Pakistani. I am afraid, Washington and Canberra, the capital cities of U. S. A. and Australia, have become an obsession with the controllers of the destiny of Karachi. They apply a principle, which has nothing in common with Karachi, on circumstances which are not parallel, and reject the reasoning of Karachi-ites, without any corroborating facts. Washington was specially built up, for the purposes of being the federal capital. Its expansion has been kept vigorously down for a century and a half. No industry worth the name exists in Washington, in spite of the fact that U. S. A. is the birthplace of huge industries. There are restrictions, even on the number of hotels, that exist, or can be built. I must humbly suggest, that if all these measures had not been taken, Washington would not have had less than 2 to 3 millions instead of having about 3 lakhs.

Canberra is almost in the course of creation. It is only recently, that the Federal Government of Australia decided to have a capital of its own, away from the provincial capitals. They too, selected a spot, which has neither any trade facilities nor industrial potentialities, and not even port possibilities. It is therefore apparent, that the law makers of Pakistan have, without deep consideration of the problem, decided to deprive the people of Karachi, of their inalienable right of self-governance, to which they are entitled on all grounds, moral, ethical, legal and economic. The refusal to recognise Karachi as a self-governing unit, is against the very concept of Pakistan. I say, it is a treason to Pakistan to enslave people, in the name of liberty, to give one-man rule in the name of democracy, and to deny them even the right of a full-fledged Unit, in the matter of representation in the House of Units, by joining together the heterogeneous elements, which have been thrown together, as if it were a wastepaper basket, in which all kinds of refuse and torn up slips can be conveniently dumped.

I know, Madam, you are feeling uneasy. May I continue?

**Mr. Chairman (Begam Jahan Ara Shah Nawaz):** Please do.

**Sardar Amir Azam Khan** (Punjab : Muslim) : His speech may be taken as read and may be circulated.....

**Mr. Chairman** (*Begam Jahan Ara Shah Nawaz*) : Please continue and do not take any notice of interruptions.

*(Interruptions from Congress Benches.)*

**The Honourable Mr. Nurul Amin** (East Bengal : Muslim) : It is from these (*pointing to Benches occupied by Members of the Congress Party*) Benches, not from those Benches. We are going ahead ; you are going back.

**Mr. Ahmad E. H. Jaffer** : Now consider the position of Karachi. It has highest literacy, more than double that of any Unit, and three times more than the average of the whole of Pakistan. As a port, it handles 70 per cent trade of Pakistan ; as a business centre, as indicated by the clearing house statistics of the banks, it does more business than the rest of Pakistan combined together. Politically it is the only town in Pakistan, which had a Mayor, before Partition ; financially it is so sound that the Government of Pakistan have never dared to publish the statement of Karachi's central and provincial revenues up to date. Our own estimate is that in the year ending March, 1953, the central and provincial sources of revenue have given the Government nothing less than 5 crores, and I am making this as a conservative estimate. If one were to look at the political experience, one will find that there are more ex-Ministers of pre-Partition and post-Partition periods in Karachi, than there are in the rest of Pakistan. The same is true about ex-Members of Legislatures, and ex-Members of the All-india Muslim League. This is not all. The number of industries which have been established in Karachi and the annual output will, I am sure, compare on equal terms with the rest of Pakistan at the present moment. I wish to clarify this statement that new industries started after the formation of Pakistan, as measured by the number of workers in factories, would indicate that leaving aside the old established industries, expansion in the rest of Pakistan has not exceeded the expansion in Karachi alone. Industries and trade are the two barometers of political and social betterment. They both place Karachi in the forefront of all the Units of Pakistan. Yet our rulers do not feel the need of giving even bare justice to the people of Karachi. Look at our plight, which has been brought about by the administration being centred in the hands of officials who regarded Karachi as only a side-line and never a whole-time job. Justice is so much delayed, that it becomes tantamount to denial. Health arrangements are so bad, that Jinnah Hospital got a name for mysterious deaths, rather than brilliant cures. I am sorry, Dr. Malik is not here.

**Mr. Ghyasuddin Pathan** : I wish his speech was heard by all.

*(Interruptions)*

**Mr. Ahmad E. H. Jaffer** : Members want me to continue on Tuesday. If they are not in a hurry I can continue.....

**Sardar Amir Azam Khan** : There is no quorum in the House.

**Mr. Chairman** (*Begam Jahan Ara Shah Nawaz*) : I am glad that the Honourable Member has drawn my attention to the fact that there is no quorum in the House at the moment.

The House stands adjourned till Tuesday, the 13th October, at 11 a.m. The speaker can continue on Tuesday.

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The House then adjourned till Eleven of the Clock, on Tuesday, the 13th October, 1953.